

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BARON WALKER, individually and on behalf of a class of
all others similarly situated,

Plaintiff,

-against-

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISMISSAL AS TO
PLAINTIFF BARON
WALKER ONLY**

17-CV-3234 (RJD)(CLP)

THE CITY OF NEW YORK; NEW YORK CITY POLICE
(NYPD) COMMISSIONER JAMES P. O'NEILL; NYPD
OFFICER (P.O.) MICHAEL G. PARKS; P.O. EDWARD
NAJARRO; P.O. COLON; P.O. SCHWAB; Detective
ROBERT NELSON; Sergeant RAYMOND GONZALEZ;
P.O. JASON WHYTE; Detective BRENDA VASQUEZ;
Sergeant DAN OSPINA; P.O. EDWARD VAVRUICK;
Sergeant JERRY SUKHNANDAN; JOHN DOES 1-6,

Defendants.

WHEREAS, Plaintiff Baron Walker ("Plaintiff Walker") commenced this action on or about May 30, 2017 against Defendants the City of New York (the "City") and John Does by filing the Complaint dated May 30, 2017 (dkt. no. 1) (the "Complaint") alleging violations of his civil rights pursuant to the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, 28 U.S.C. § 1983 and New York State law relating to his arrest and detainment by the New York City Police Department (the "NYPD");

WHEREAS, Defendant the City filed its Answer dated August 26, 2017 (dkt. no. 13) denying any fault, wrongdoing or liability arising from the allegations set forth in the Complaint, and also asserting affirmative defenses;

WHEREAS, on February 2, 2018 Plaintiff filed the Amended Complaint dated February 2, 2018 (dkt. no. 19) (the "Amended Complaint") adding New York City Police Department Commissioner James P. O'Neill, Officer Michael Parks, Officer Edward Najarro,

Officer Carlos Colon, Officer Robert Schwab, Detective Robert Nelson, Sergeant Raymond Gonzalez, Officer Jason Whyte, Detective Brenda Vasquez, Sergeant Dan Ospina, Officer Edward Vavruick, and Sergeant Jerry Sukhnandan as Defendants;

WHEREAS, on May 16, 2018, Defendants the City, Commissioner James P. O'Neill, Officer Michael Parks, Officer Edward Najarro, Officer Colon, Officer Schwab, Detective Robert Nelson, Sergeant Raymond Gonzalez, Detective Brenda Vasquez, Sergeant Dan Ospina, Officer Edward Vavruick, and Sergeant Jerry Sukhnandan (collectively, "City Defendants") filed their Answer to the Amended Complaint dated May 16, 2018 (dkt. no. 46) denying any fault, wrongdoing or liability arising from the allegations set forth in the Amended Complaint, and also asserting affirmative defenses;

WHEREAS, on August 2, 2018, Plaintiff Walker, Milan Heggs, and Disability Rights New York ("DRNY") filed a letter requesting a pre-motion conference on their intended motions: (1) for Mr. Heggs to intervene as a Plaintiff and Proposed Class Representative; 2) for DRNY to intervene as a Plaintiff in its representational capacity; and 3) to request permission to file the proposed Second Amended Class Action Complaint (the "August 2, 2018 Request"). See Dkt. No. 60.

WHEREAS, on August 8, 2018, the Court granted Mr. Heggs' request to intervene in the above referenced action as a Plaintiff and Proposed Class Representative (Part 1 of the August 2, 2018 Request), and granted DRNY permission to intervene in the above referenced action as a Plaintiff in its representational capacity (Part 2 of the August 2, 2018 Request);

WHEREAS, Part 3 of the August 2, 2018 Request (the request for permission to file the proposed Second Amended Class Action Complaint) was granted by the Court on October 11, 2018;

WHEREAS, the parties have agreed to resolve Plaintiff Walker's individual claims without further proceedings, and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the parties, through the undersigned, as follows:

1. The claims of Plaintiff Walker are hereby dismissed, with prejudice, and without costs, expenses, or attorney's fees in excess of the amounts set forth below.

2. The City shall pay Plaintiff Walker FIFTY THOUSAND and ONE DOLLAR and ZERO CENTS (\$50,001.00) in full satisfaction of all claims that he asserted or could have asserted in this action, whether known or unknown, including, but not limited to, all claims for damages, injunctive relief, costs, expenses, and attorney's fees in excess of the amount specified in paragraph "3" below.

3. The City shall make the payment specified in paragraph "2" above by check payable to "Baron Walker" and shall send the check by regular mail to Gillian Cassell-Stiga, Esq., Beldock Levine & Hoffman LLP, 99 Park Avenue, PH/26th Floor, New York, New York 10016.

4. The City shall pay Plaintiff Walker ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS and ZERO CENTS (\$125,000.00) in full satisfaction of Plaintiff Walker's claims for costs, expenses, and attorneys' fees arising out of this action.

5. The City shall make the payment specified in paragraph "4" above by check payable to "Beldock Levine & Hoffman LLP" and shall send the check by regular mail to Gillian Cassell-Stiga, Esq., Beldock Levine & Hoffman LLP, 99 Park Avenue, PH/26th Floor, New York, New York 10016.

6. In consideration of the payments specified in paragraphs "2" and "4" above, Plaintiff Walker agrees to release and discharge Defendants the City, Commissioner James P.

O'Neill, Officer Michael Parks, Officer Edward Najarro, Officer Colon, Officer Schwab, Detective Robert Nelson, Sergeant Raymond Gonzalez, Detective Brenda Vasquez, Sergeant Dan Ospina, Officer Edward Vavruick, Sergeant Jerry Sukhnandan, Officer Jason Whyte, the John Doe Defendants, their successors or assigns, and all of their present or former officials, employees, representatives, or agents of the City and/or NYPD from any and all liability, claims, and/or rights of action arising from or relating to damages, injunctive relief, costs, expenses, and/or attorneys' fees in connection with the claims asserted by Plaintiff Baron Walker in this action.

7. Plaintiff Walker shall execute and deliver to City Defendants' attorney all documents necessary to effect this Stipulation and Order of Settlement and Dismissal (this "Stipulation and Order"), which are known at this time to be releases from Plaintiff Walker and Plaintiff Walker's counsel based on the terms of paragraphs "2" through "6" above, and Substitute W-9 forms from counsel Beldock Levine & Hoffman LLP.

8. This Stipulation and Order contains all of the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time, nor any written agreement entered into prior to the execution of this Stipulation and Order, regarding the subject matter of this action shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

9. Nothing contained herein shall be deemed to be an admission by any of the Defendants of any of Plaintiff Walker's allegations, nor an admission that any of Defendants have in any manner or way violated any of Plaintiff Walker's rights or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, charters, rules, or regulations of the United States, the State of New York, the City, or any other rules, regulations, or bylaws of any department or subdivision of the City or the NYPD.

10. Nothing contained herein shall be deemed to constitute a policy or practice of the City, NYPD, or any Defendant.

11. This Stipulation and Order shall not be admissible in, nor is it related to, any other litigation, proceeding, or settlement negotiation, except as necessary to enforce its terms.

12. Facsimile or photocopied signatures on this Stipulation and Order shall have the full force and effect of originals.

Dated: New York, New York
October 18, 2018

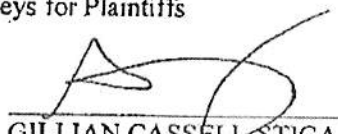
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Attorneys for Plaintiffs

By:


GILLIAN CASSELL-STIGA

Attorney for City Defendants

By:


SON K. LE
Special Assistant Corporation Counsel

SO ORDERED:


Raymond J. Dearie
HONORABLE RAYMOND J. DEARIE

12/20/18